

PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP

1285 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)  
RANDOLPH E. PAUL (1946-1956)  
SIMON H. RIFKIND (1950-1995)  
LOUIS S. WEISS (1927-1950)  
JOHN F. WHARTON (1927-1977)UNIT 5201, FORTUNE FINANCIAL CENTER  
5 DONGSANHUAN ZHONGLU  
CHAOYANG DISTRICT, BEIJING 100020, CHINA  
TELEPHONE (86-10) 5828-6300HONG KONG CLUB BUILDING, 12TH FLOOR  
3A CHATER ROAD, CENTRAL  
HONG KONG  
TELEPHONE (852) 2846-0300ALDER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JU, UNITED KINGDOM  
TELEPHONE (44 20) 7367 1600

WRITER'S DIRECT DIAL NUMBER

(212) 373-3118

WRITER'S DIRECT FACSIMILE

(212) 492-0118

WRITER'S DIRECT E-MAIL ADDRESS

lelynch@paulweiss.com

FUKOKU SEIMEI BUILDING  
2-2 UCHISAIWAICHO 2-CHOME  
CHIYODA-KU, TOKYO 100-0011, JAPAN  
TELEPHONE (81-3) 3597-8101TORONTO-DOMINION CENTRE  
77 KING STREET WEST, SUITE 3100  
P.O. BOX 226  
TORONTO, ONTARIO M5K 1J3  
TELEPHONE (416) 504-05202001 K STREET, NW  
WASHINGTON, DC 20006-1047  
TELEPHONE (202) 223-7300500 DELAWARE AVENUE, SUITE 200  
POST OFFICE BOX 32  
WILMINGTON, DE 19899-0032  
TELEPHONE (302) 655-4410MATTHEW W. ABBOTT  
EDWARD T. ACKERMAN  
JACOB A. ADLERSTEIN  
JUSTIN ANDERSON  
ALLAN J. ARFFA  
JONATHAN H. ASHTOR  
ROBERT A. ATKINS  
DAVID J. BALL  
SCOTT A. BARSHAY  
PAUL M. BASTA  
J. STEVEN BAUGHMAN  
LYNN B. BAYARD  
CRAIG A. BENSON  
MARK S. BERGMAN  
DAVID M. BERNICK  
JOSEPH J. BIAL  
BRUCE BIRENBOIM  
H. CHRISTOPHER BOEHNING  
ANGELO BONVINO  
ROBERT BRITTON  
DAVID W. BROWN  
SUSANNA M. BUERGEL  
JESSICA S. CAREY  
DAVID CARMONA  
GEOFFREY R. CHEPIGA  
ELLEN N. CHING  
WILLIAM A. CLAREMAN  
LEWIS R. CLAYTON  
YAHONNES CLEARY  
RACHAEL G. COFFEY  
JAY COHEN  
KELLEY A. CORNISH  
CHRISTOPHER J. CUMMINGS  
THOMAS V. DE LA BASTIDE III  
ARIEL J. DECKELBAUM  
KAREN L. DUNN  
ALICE BELISLE EATON  
ANDREW J. EHRlich  
GREGORY A. EZRING  
ROSS A. FELDSTON  
ANDREW C. FINCH  
BRAD J. FINKELSTEIN  
BRIAN P. FINNEGAN  
ROBERTO FINZI  
PETER E. FISCH  
HARRIS FISCHMAN  
ANDREW J. FOLEY  
ANDREW J. FORMAN\*  
HARRIS B. FREIDUS  
CHRISTOPHER D. FREY  
MANUEL S. FREY  
ANDREW L. GAINES  
KENNETH A. GALLO  
MICHAEL E. GERTZMAN  
ADAM M. GIVERTZ  
SALVATORE GOGLIORMELLA  
NEIL GOLDMAN  
MATTHEW B. GOLDSTEIN  
ROBERTO J. GONZALEZ\*  
CATHERINE L. GOODALL  
ERIC GOODISON  
CHARLES H. GOOGE, JR.  
ANDREW G. GORDON  
BRIAN S. GRIEVE  
UDI GROFMAN  
NICHOLAS GROOMBRIDGE  
BRUCE A. GUTENPLAN  
ALAN S. HALPERIN  
CLAUDIA HAMMERMAN  
BRIAN S. HERMANN  
MICHELE HIRSHMAN  
ROBERT E. HOLO  
DAVID S. HUNTINGTON  
AMRAN HUSSEIN  
LORETTA A. IPPOLITO  
WILLIAM A. ISAACSON\*  
JAREN JANGHORBANI  
BRIAN M. JANSON  
JEH C. JOHNSON  
MEREDITH J. KANE  
JONATHAN S. KANTER  
BRAD S. KARP  
PATRICK N. KARSNITZ  
JOHN C. KENNEDYBRIAN KIM  
KYLE J. KIMPLER  
ALEXIA D. KORBERG  
ALAN W. KORBERG  
DANIEL J. KRAMER  
CAITH KUSHNER  
DAVID K. LAKHDHIR  
JOHN E. LANGE  
GREGORY F. LAUFER  
BRIAN C. LAVIN  
XIAOYU GREG LIU  
LORETTA D. LYNCH  
JEFFREY D. MARELL  
MARCO V. MASOTTI  
DAVID W. MAYO  
ELIZABETH R. MCCOLM  
JEAN M. MCLOUGHLIN  
ALVARO MEMBRILLERA  
MARK F. MENDELSON  
CLAUDINE MEREDITH-GOUJON  
WILLIAM S. MICHAEL  
JUDIE NG SHORTELL\*  
CATHERINE NYARADY  
JANE B. O'BRIEN  
ALEX YOUNG K. OH  
BRAD R. OKUN  
KELLEY D. PARKER  
LINDSAY B. PARKS  
ANDREW M. PARKEN  
VALERIE E. RADWANER  
JEFFREY J. RECHER  
CARL L. REISNER  
LORIN L. REISNER  
JEANNIE S. RHEE\*  
WALTER G. RICCIARDI  
WALTER RIEMAN  
RICHARD R. ROSEN  
ANDREW N. ROSENBERG  
JUSTIN ROSENBERG  
JACQUELINE P. RUBIN  
CHARLES F. "RICK" RULE\*  
RAPHAEL M. RUSSO  
ELIZABETH M. SACKSTEDER  
JEFFREY D. SAFERSTEIN  
JEFFREY B. SAMUELS  
KENNETH M. SCHNEIDER  
ROBERT B. SCHUMER  
JOHN M. SCOTT  
BRIAN SCRIVANI  
KYLE T. SEIFRIED  
KANNON K. SHANMUGAM\*  
DAVID R. SICULAR  
AUDRA J. SOLOWAY  
SCOTT M. SONTAG  
SARAH STASNY  
TARUN M. STEWART  
ERIC ALAN STONE  
AIDAN SYNNOTT  
BRETTE TANNENBAUM  
RICHARD C. TARLOWE  
MONICA K. THURMOND  
DANIEL J. TOAL  
LAURA C. TURANO  
CONRAD VAN LOGGERENBERG  
LIZA M. VELAZQUEZ  
MICHAEL VOGEL  
RAMY J. WAHBEH  
LAWRENCE G. WEE  
THEODORE V. WELLS, JR.  
LINDSEY L. WIERSMA  
STEVEN J. WILLIAMS  
LAWRENCE I. WITDORCHIC  
AUSTIN WITT  
MARK B. WLAZLO  
JULIA TARVER MASON WOOD  
JENNIFER H. WU  
BETTY YAP\*  
JORDAN E. YARETT  
KAYE N. YOSHINO  
TONG YU  
TRACEYA A. ZACCONE  
TAURIE M. ZEITZER  
T. ROBERT ZOCHOWSKI, JR.

\*NOT ADMITTED TO THE NEW YORK BAR

August 20, 2020

**VIA ECF**Honorable Margo K. Brodie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

**I. Background**

I have continued to receive call and videoconference log data from both parties. I had one joint mediation call with the Federal Defenders, Inc. and their counsel

and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).<sup>1</sup>

My conversations with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.
3. The parameters of the completed site visit at the MDC and upcoming site visit to the MCC.

## **II. Telephonic Contact**

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

### **A. MCC**

According to the information I have from MCC, MCC scheduled 130 calls between August 13 and August 19, 2020. 112 calls were completed, 11 were attempted but not completed, and seven were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders report that three requests to schedule calls have been pending for longer than 48 hours.<sup>2</sup> Additionally, Federal Defenders report some technical issues this week.

### **B. MDC**

According to the information I have from MDC, MDC scheduled 240 calls between August 13 and August 19, 2020. 210 calls were completed, 20 were attempted but not completed, two were cancelled or rescheduled, and eight were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. The Federal Defenders report that zero requests to schedule calls were pending for more than 48 hours. Additionally, Federal Defenders report some technical issues this week.

---

<sup>1</sup> I held a joint mediation call on August 20, 2020.

<sup>2</sup> The latest information reported by Federal Defenders on overflow calls and VTCs for both institutions dates to August 18, 2020.

The parties continue to discuss the issue of the overflow calls.

### **III. Videoconferencing**

#### **A. MCC**

According to MCC records, there were 27 videoconferences scheduled to take place between August 13 and August 19, 2020. 19 were completed as scheduled, one was rescheduled, and seven were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders report that eight requests to schedule VTCs were pending for more than 48 hours. We will review these reports with the parties. Additionally, Federal Defenders report some technical issues this week.

#### **B. MDC**

According to MDC records, there were 54 videoconferences scheduled to take place between August 13 and August 19, 2020. 46 were completed as scheduled, two were attempted but not completed, four were cancelled or rescheduled, and two were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders report that zero requests to schedule VTCs were pending for more than 48 hours. Federal Defenders also report some privacy and technical issues this week. We will review these reports with the parties.

The parties continue to discuss the issue of the overflow VTCs.

### **IV. Site Visit**

A site visit to the MDC was held on Wednesday August 19. Present were Mr. Hecker, Mr. Patton, Ms. Vondornum, Mr. Eichenholtz, Ms. Pratesi and myself. We were able to visit and view the arrangements in the main visiting room, the women's visiting room and the SHU. We were provided access to the attorney visiting areas in each of the sections. We were allotted two hours for the site visit and concluded after approximately one and one-half hours. In each visiting area we discussed logistical issues such as furniture and sanitizer placement, among others. Plaintiffs provided a summary of issues discussed and open questions to the mediation team and the government, which list was the basis for discussion during our mediation call earlier today. I will continue to have discussions with the parties on the open issues.

The parties are working to find a date for the MCC site visit.

**V. Ongoing Discussions**

The parties continue their discussions on the issues of overflow calls and a potential scheduling system. The parties also continue their discussions on the issue of the replacement of legal materials taken or destroyed during last month's search. I will continue to monitor these issues.

Respectfully,

/s/ Loretta E. Lynch  
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink  
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)  
Sean Greene, U.S. Attorney's Office (E.D.N.Y.)  
Matthew J. Modafferi, U.S. Attorney's Office (E.D.N.Y.)  
Jeffrey Oestericher, U.S. Attorney's Office (S.D.N.Y.)  
David Jones, U.S. Attorney's Office (S.D.N.Y.)